

REMARKS

New claims 21-29 are presented herewith.

As now recited in independent claim 21, the second part of the connecting device is adapted to capture the pipe so as to be slidable along the pipe. Along these lines, as further recited in dependent claims 22 and 23, the second part is recited to include a base connecting two spaced sides with inwardly turned ends on the sides spaced from said base to slidably capture the pipe when disposed therein (claim 22), wherein the inwardly turned ends are spaced from one another a distance less than the dimension between the second part sides of the captured pipe (claim 23). New claim 29 recites a method of securing a pipe to a surface using the claim 21 structure, wherein the second part is slid over the captured pipe until the co-operating formations attach the first part to the second part at a selected one of a plurality of spacings between the pipe and the surface.

With this structure and method as now clearly claimed, the second part will be able to capture a pipe and then secure that pipe in any of a plurality of desirable different spacings from a surface. With a long pipe, in particular, this may be particularly advantageous, inasmuch as imperfections in the pipe and/or the surface may result in varying spacing between the two over the length of the pipe (e.g., if the pipe and wall are not both perfectly straight, the spacing along the pipe length will be different at different positions along the pipe even if they are intended to be "parallel"). With the present invention, not only may such different spacings be accommodated, but this may be accomplished with the pipe nonetheless being securely mounted. For example, new claim 27 specifically recites ribs around the second part which engage the pipe when disposed therein, thereby ensuring a secure, rather than loose, attachment of the pipe, even at different spacings.

The principal references previously relied upon herein by the examiner (French 1,559,036 [Dom Holdings] and UK Appl. 2,315,090 [Smith]) are distinctly different from the claimed structure. Specifically, the "second part" (*i.e.*, the part not secured to the wall) does not capture the pipe and is not slidable along the pipe in either reference but, instead, would fall off of the pipe. Moreover, both Dom Holdings

and Smith require either that the secured pipe be at a single specific spacing from the surface which is defined by the part secured to the surface, or that it be loosely secured.

For example, in each of the Dom Holdings embodiments having more than one position in which second part 2 may be attached to the first part 1¹, the second part 2 presumably must be pushed in until it tightly clamps a pipe against the base 3 of the first part 1. *However, it can only do that in a position in which the pipe is at only one spacing from the surface: the thickness of the base 3.* If the pipe is desired to be secured with this structure at a spacing from the surface which is greater than the thickness of the base 3, then the second part 2 must be secured at one of its outer positions, in which case the pipe would be undesirably free move within the loose confines of the two parts 1, 2. In such a configuration, if used with a drainage downspout on a house, for example, such a structure would be susceptible to undesirably rattling around during a windstorm, among other undesirable possibilities resulting from the loose connection.

The same is true of the various Smith embodiments, in which the outer (second) part does not capture the pipe, whereby the pipe must either be secured at a single spacing from the surface (a spacing defined by the base [first part]), or it must be loose.

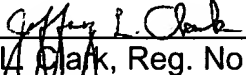
In short, neither Dom Holdings nor Smith disclose or suggest, alone or in combination, the claimed invention in which a pipe may be captured by a second part and the second part then easily secured to a first part secured to a surface in whatever

¹Figs. 1-3, 5-7, 9 and 10. Figs. 4, 8, 11 and 12 all apparently have only one secure position.

spacing is appropriate at that location. Accordingly, the claims presented herein are believed to be allowable. Early notification to that effect is respectfully requested.

Respectfully submitted,

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By 
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CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this Preliminary Amendment and any other documents referred to as enclosed herein, are being deposited in an envelope with the United States Postal Service "Express Mail (No. EV 360022372US) Post Office to Addressee" service under 37 CFR 1.10 on 11/24/03 and addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Signature:


Carla Phillips